

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition No.:** 79-026-16-1-5-00040-17  
**Petitioners:** A.G. & Martha Altschaeffl  
**Respondent:** Tippecanoe County Assessor  
**Parcel No.:** 79-07-18-406-009.000-026  
**Assessment Year:** 2016

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, finding and concluding as follows:

**Procedural History**

1. Petitioners initiated their appeal for 2016 with the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”). On December 8, 2016, the PTABOA issued its final determination. Petitioners filed their Form 131 petition on January 5, 2017.
2. Petitioners elected to have their appeal heard under the Board’s small claims procedures. Respondent did not elect to have the appeal removed from those procedures.
3. This appeal originally was scheduled for hearing on July 13, 2017; however, Mr. Altschaeffl advised that he is home-bound and physical presence at the hearing would be difficult. Respondent requested a continuance until Petitioners could physical attend the hearing. The Board issued an “Order Continuing Hearing and Granting Petitioner’s Request to Conduct Hearing Telephonically” on July 6, 2017.
4. On October 25, 2017, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held the hearing. Neither the Board nor the ALJ inspected the property.
5. Adolph Altschaeffl and Martha Altschaeffl were sworn and testified—they participated telephonically. Rocky Killion, Superintendent of West Lafayette Community School Corporation was sworn and testified for Petitioners. Tippecanoe County Assessor Eric Grossman and his Appeals Coordinator Christopher Coakes were sworn for Respondent; however, Mr. Coakes did not testify.

## **Facts**

6. The property under appeal is a single-family home located at 1100 Northwestern Avenue in West Lafayette.
7. The 2016 assessed value is \$43,800 for the land and \$240,700 for the improvements. The total assessed value is \$284,500.
8. Petitioners requested an assessed value of \$43,800 for land and \$225,800 for improvements (\$269,600 total assessment).

## **Record**

9. The official record for this matter contains the following:
  - a. A digital recording of the hearing,
  - b. Exhibits:

Petitioner Exhibit 1:	Petitioners' chronological narrative of appeal,
Petitioner Exhibit 2:	Petitioners' support for appeal,
Petitioner Exhibit 3:	Page 2 of the Form 115 – Notification of Final Assessment Determination,
Petitioner Exhibit 4:	State Form 53569 (R11/12-16)/Treasurer Form TS-1A,
Petitioner Exhibit 5:	Six photographs of the subject property and three photographs of the surrounding area,
Respondent Exhibit 1:	Property record card ("PRC") for the subject property,
Respondent Exhibit 2:	Respondent's narrative of the appeal,
Respondent Exhibit 3:	Sales comparison grid,
Respondent Exhibit 4:	Sales comparison aerial map,
Respondent Exhibit 5:	Subject neighborhood regression analysis and USB flash drive of regression master data,
Respondent Exhibit 6:	2016-2017 Uniform Standards of Professional Appraisal Practice ("USPAP") Advisory Opinion 18,
Respondent Exhibit 7:	Excerpt from USPAP Advisory Opinion 23,
Respondent Exhibit 8:	Appraisal Practices Board Advisory #4,
Board Exhibit A:	Form 131 petition and attachments,
Board Exhibit B:	Hearing notice,
Board Exhibit C:	Hearing sign-in sheet,
  - c. These Findings and Conclusions.

## **Burden of Proof**

10. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that his property's assessment is wrong and what its correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). A burden-shifting statute creates two exceptions to that rule.
11. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
12. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15,” except where the property was valued using the income capitalization approach in the appeal. Under subsection (d), “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
13. These provisions may not apply if there was a change in improvement, zoning, or use. Ind. Code § 6-1.1-15-17.2(c).
14. The assessed value increased from \$269,600 to \$284,500 between 2015 and 2016. This increase is more than 5%. Therefore, Respondent has the burden to prove the value of \$284,500 is correct.

## **Contentions**

15. Summary of Respondent's case:
  - a. The subject property consists of a 2,228 square foot two-story house with a 1,096 square foot unfinished basement for a total of 3,324 square feet. It is on a 0.2687 acre lot in Hills & Dales subdivision. This subdivision contains single-family homes with a large variety of architectural styles. The homes were constructed from 1925 to 1960. Petitioners' home was built in 1930. *Grossman testimony; Resp't Exs. 1 & 2.*

- b. The subject land was given a negative 6% influence factor due to topography. The subject property is located directly across the road from Purdue University's Mollenkopf Athletic Facility. The Hills & Dales subdivision also abuts West Lafayette Junior/Senior High School to the west and north. *Grossman testimony; Resp't Exs. 1, 2 & 4.*
- c. Respondent presented a sales comparison analysis to support the 2016 assessed value. Respondent selected five purportedly comparable sales of two-story homes in the surrounding area that sold between February 6, 2015, and November 13, 2015. All are within a 2,200 foot radius of the subject property. The specific locations of the subject property and the five comparables are indicated on the aerial map. (In his closing statement, Respondent admitted that the location of the subject property is inferior to the locations of the comparables.) *Grossman testimony; Resp't Exs 3 & 4.*
- d. To obtain credible results using a sales comparison approach, one must adjust for the differences between the purportedly comparable properties and the subject property. Adjustments must be quantifiable and data driven. For that reason, Respondent reviewed 89 sales in the Hills & Dales subdivision dating from 2013 and developed a linear regression model. The model uses multiple variables to quantify what drives differences in value. *Grossman testimony; Resp't Exs. 3 & 5.*
- e. According to Respondent, he used a regression model that identifies the variables that drive value and determines how much they contribute to value. In this case, the regression model identified time of sale, grade and usable area as the significant variables. All of the comparable sales were adjusted for these variables as shown on the sales comparison grid. *Grossman testimony; Resp't Exs. 3 & 5.*
- f. According to Respondent, his linear regression model constitutes an Automated Valuation Model ("AVM"). USPAP Advisory Opinion 18 describes an AVM as a computer software program that analyzes data using an automated process. Respondent contends this methodology was used to show how CAMA data correlates to sale price. Advisory Opinion 23 describes how an appraiser must identify characteristics of property that are relevant to the type and definition of value and the intended use of the analysis. Appraisal Practices Board Valuation Advisory #4 outlines the importance of identifying similar competing properties to the subject property. *Grossman testimony; Resp't Exs. 6-8.*
- g. To see how reasonable the comparable properties are, Respondent looked at the gross and net adjustments. Respondent testified that a general principle for a typical appraisal of a single-family home is that the net adjustments are less than 15% and the gross adjustments are less than 25%. This analysis, with the exception of one comparable property, achieved those results. There are no

extraordinary adjustments, so the properties are truly comparable to the subject property. *Grossman testimony; Resp't Ex. 3.*

- h. Respondent testified that adjusted sale prices of comparable properties ranged from \$157.89 per square foot to \$218.41 per square foot, with a median value of \$201.22 per square foot. Based on the sales comparison approach the value of the subject property would be approximately \$448,314. But its 2016 assessed value translates to only approximately \$127 per square foot.<sup>1</sup> Although comparable sales indicate the subject property is undervalued, Respondent is not requesting an increase in the assessment. *Grossman testimony; Resp't Ex. 3.*
  - i. Respondent contends that the 2016 assessed value of \$284,500 should be upheld. *Grossman testimony.*
16. Summary of Petitioners' case:
- a. Petitioners claim their property is assessed too high—it should not have increased from the 2015 assessed value. The home lacks amenities normally considered important in the current market. The half-bathroom is a converted closet. There is no storage on the first floor. The fireplace does not work. There is no direct access to a bathroom from a bedroom. And the property only has a one-car basement garage. *A. & M. Altschaeffl & Killion testimony; Pet'r Exs. 2 & 5.*
  - b. The property also suffers from outside negative influences such as high volume of noise and light from the Purdue University clubhouse and football practice facility. These problems have gotten worse during the 50 years Petitioners have lived here. The subject property is on a major four-lane street with lots of traffic 24 hours a day. The property has no on-street parking. The view from the subject property is parking lots and large buildings. None of the purportedly comparables suffer from these location problems. *A. & M. Altschaeffl testimony; Pet'r Ex. 5.*
  - c. Even though there were no changes to the property, the assessed value increased more than 5% from 2015 to 2016, and Respondent failed to provide adequate information to justify that increase. *A. Altschaeffl testimony; Pet'r Exs. 1 & 4.*

---

<sup>1</sup> The actual 2016 assessed value per square foot is \$127.69 (i.e. \$284,500 assessed value divided by 2,228 square feet).

## Analysis

17. Respondent failed to prove the assessed value of \$284,500 is correct. Because of that failure, Ind. Code § 6-1.1-15-17.2 (b) requires that the assessment be changed back to \$269,600 (the assessed value for 2015), which is all that Petitioners requested. The Board reached this decision for the following reasons:
- a. Indiana assesses real property based on its true tax value, which does not mean fair market value, but rather the value determined under the Department of Local Government Finance's rules. The DLGF's 2011 Real Property Assessment Manual defines true tax value as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). Evidence in a tax appeal should be consistent with that standard. For example, a market value-in-use appraisal prepared according to USPAP often will be probative. *See id.*; *see also, Kooshtard Property VI, LLC v. White River Township Assessor*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs, sale or assessment information for the property under appeal or comparable properties, and any other information compiled according to generally recognized appraisal practices. *See Eckerling v. Wayne Township Assessor*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *see also* Ind. Code § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments to determine an appealed property's market value-in-use).
  - b. Regardless of the type of evidence offered, a party must explain how that evidence relates to the property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For 2016 assessments, the valuation date was January 1, 2016. Ind. Code § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c).
  - c. Respondent presented a sales comparison approach as evidence that the assessed value of \$284,500 is correct. To effectively use a sales comparison approach in a property tax assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long*, 821 N.E.2d at 470. The proponent must identify the characteristics of the subject property, explain how those characteristics compare to the characteristics of the purportedly comparable properties, and explain how any differences affect the relevant market value-in-use of the properties. *Id.* at 471.
  - d. Respondent relied on five comparable properties that are similar to the subject property in that they are all two-story homes of similar age and amenities.

According to Respondent there were three areas where differences between the subject property and the comparable properties required adjustments. Adjustments for differences in date of sale, usable area and grade were made because a linear regression model identified those differences as the most significant variables driving value. The specific adjustments are shown on Respondent Exhibit 3. The summary statement in Respondent Exhibit 2 is similar to Mr. Grossman's testimony, but provides a little more detail about how the Respondent's sales comparison approach was done.

Five comparable sales were found. These sales are all 2 story houses in Neighborhood 418 that sold from between January 1, 2015 and December 31, 2015. They are comparable to the subject property not just due to their proximity (although two of the properties are within 500 feet from the subject, and all are within a half mile radius of the subject), but due to their features. The subject property's effective year built is 1930; the comparable properties' effective year built ranges from 1929 to 1940. The subject has a lot size of 0.2687 acre; the comparable properties have a lot area ranging from 0.2283 to 0.5281 acre. All comparable properties have Central Air and a fireplace, as does the subject. The finished living area of the subject property is 2,228 sf. The finished living area of the comparable properties ranges from 1,820 sf to 2,376 sf.

The regression model used for the sales comparison adjustments was developed by the Tippecanoe County Assessor using 89 sales from the subject property neighborhood (418; Hills and Dales). Each sale has a construction year of 1926 through 1969, and the sale dates range from 2009 to 2015.

This regression model was applied to the five comparable sales, adjusting the comparables to the subject property based on a set of 3 variables (time, use area, and grade). This results in a median value per square foot of \$201.22, giving the subject property a total value of \$448,314.25 for the 2016 valuation date. The value derived by the sales comparison approach is considerably higher than the 2016 assessment for the subject property.

*Resp't Ex. 2, p.4.*

- e. Respondent presented USPAP Advisory Opinion 18 to support his use of a linear regression model in this case. Advisory Opinion 18 addresses how an appraiser may use an Automated Valuation Model (AVM) and states, "An AVM is a computer software program that analyzes data using an automated process. For example, AVMs may use regression, adaptive estimation, neural network, expert

reasoning, and artificial intelligence programs. The output of an AVM is not, by itself, an appraisal. An AVM's output may become a basis for appraisal ... if the appraiser believes the output to be credible for use in a specific assignment." While Opinion 18 allows use of an AVM, "appropriate use of an AVM is, like any tool, dependent upon the skill of the user and the tool's suitability to the task at hand." Appropriate use depends on the answer to five critical questions. Does the appraiser have a basic understanding of how the AVM works? Can the appraiser use the AVM properly? Are the AVM and the data it uses appropriate given the intended use of assignment results? Is the AVM output credible? Is the AVM output sufficiently reliable for use in the assignment? But in this case the record contains no answers to any of these important questions. Therefore, we are not convinced that the three types of adjustments (for date of sale, usable area and grade) are the only ones necessary for a credible sales comparison valuation. Furthermore, we are not convinced that the amounts of those adjustments are credible.

- f. Respondent also presented Appraisal Practices Board Valuation Advisory #4 as support for the sales comparison analysis. This document is about properly identifying comparable properties. Clearly there is no dispute that comparable properties do not have to be identical—but more similar properties make for a better comparison. Advisory #4 explains that evaluating the characteristics of a property is a critical step. And location is one of the primary considerations.
- g. Nevertheless, the sales comparison analysis offered by Respondent makes no adjustment for location, even though *Respondent's closing statement admitted that the location of the subject property is inferior* to the comparables. This admission is consistent with Mrs. Altschaeffl's undisputed testimony that the location of their home is directly across the street from the Purdue Athletic Complex on a major four-lane street where there is traffic 24 hours a day—not on a neighborhood street. Respondent's Exhibit 4 is an aerial view of the area that also supports Petitioners' claim about the location of their property being less desirable than the comparables, which are located in the interior of the neighborhood.
- h. For these reasons, we conclude that the sales comparison and valuation offered by Respondent is not credible. It does not prove that the assessed value of \$284,500 is correct.

### **Conclusion**

- 18. Respondent failed to prove that the disputed assessed value is correct and Petitioners only challenged the increase from 2015. Under these circumstances, Ind. Code § 6-1.1-15-17.2 (b) requires that the assessment for the subject property revert back to the 2015 value.

## Final Determination

In accordance with the above findings of fact and conclusions of law, the Board determines the 2016 assessed value must be changed to \$269,600.

ISSUED: January 17, 2018

---

Chairman, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.